

Appl. No. 09/904,794
Response Dated September 22, 2003
Reply to Office Action of August 26, 2003

RECEIVED
DEC 04 2003
TC 1700

Appl. No. : 09/904,794
Applicant : GERMICK ROBERT J
Filed : July 12, 2001
Title : FOOD PRODUCTS, ESPECIALLY REFRIGERATED
YOGURT PRODUCTS, AND APPARATUS AND
METHODS FOR THEIR PRODUCTION

TC/A.U. : 1761
Examiner : Steven L. Weinstein

Docket No. : 5468USA

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

This communication is submitted in response to the Office Action mailed August 26, 2003, requiring restriction of certain claims within the subject application. Specifically, the Examiner has divided the currently pending claims into Group I, claims 1-7 and 10, drawn to a manifold, Group II, claims 11-20, drawn to an apparatus, and Group III, claims 21-29 and 31, drawn to a method of producing a food item.

Applicant hereby provisionally elects, with traverse, to prosecute Group III, claims 21-29 and 31, drawn to a method of producing a food item. However, Applicant reserves the right to later file continuations or divisionals directed to the non-elected invention.

The Restriction Requirement is traversed on the basis that, Group I recites a manifold that could be used in connection with the Group II apparatus, additionally Group I could be used in the method of Group III. Furthermore, Group II could be used in connection with Group I and Group III. Likewise, Group III could be used in connection with Group I and II. Although Group I, II, and III are classified in

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different classes, the Examiner should search and review the patents classified in Group I, as well as the patents classified in Group II and III to insure a complete review of the patentability of the present invention. As all three classes cited by the Examiner will need to be searched for Group I, or Group II, or Group III, no serious burden is placed on the Examiner by examining Group I, II, and III simultaneously. It is respectfully requested that the restriction requirement be removed and Groups I, II, and III proceed to issue. "If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it arguably may include claims to distinct or independent inventions."

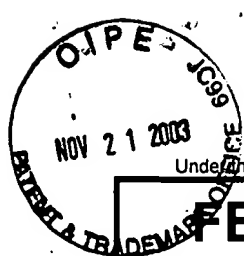
MPEP§803

It is submitted that the above response is fully responsive to the Office Action mailed August 26, 2003. No fee is believed to be necessary in connection with this response. Should any fee be required, the Commissioner is authorized to charge our Deposit Account No. 07-0900.

Respectfully submitted,

GENERAL MILLS, INC.

By John A. O'Toole
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PTO/SB/17 (10-03)

Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)**420.00**

Complete if Known

Application Number **09/904,794**
Filing Date **July 12, 2001**
First Named Inventor **GERMICK, ROBERT J.**
Examiner Name **Steven L. Weinstein**
Art Unit **1761**
Attorney Docket No. **5468USA**

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DEC 04 2003
TC 1700

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number **07-0900**
Deposit Account Name

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) during the pendency of this application.

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	

SUBTOTAL (1)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

	Extra Claims	Fee from below	Fee Paid
Total Claims	-20** =	x	=
Indep. Claims	-3** =	x	=
Multiple Dependent			=

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) \$

**or number previously paid, if greater; For Reissues, see above.

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1051 130	2051 65	Surcharge - late filing fee or oath
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet
1053 130	1053 130	Non-English specification
1812 2,520	1812 2,520	For filing a request for ex parte reexamination
1804 920*	1804 920*	Requesting publication of SIR prior to Examination action
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action
1251 110	2251 55	Extension for reply within first month
1252 420	2252 210	Extension for reply within second month
1253 950	2253 475	Extension for reply within third month
1254 1,480	2254 740	Extension for reply within fourth month
1255 2,010	2255 1,005	Extension for reply within fifth month
1401 330	2401 165	Notice of Appeal
1402 330	2402 165	Filing a brief in support of an appeal
1403 290	2403 145	Request for oral hearing
1451 1,510	1451 1,510	Petition to institute a public use proceeding
1452 110	2452 55	Petition to revive - unavoidable
1453 1,330	2453 665	Petition to revive - unintentional
1501 1,330	2501 665	Utility issue fee (or reissue)
1502 480	2502 240	Design issue fee
1503 640	2503 320	Plant issue fee
1406 130	1460 130	Petitions to the Commissioner
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)
1806 180	1806 180	Submission of Information Disclosure Stmt
8021 40	8021 40	Recording each patent assignment per property (times number of properties)
1809 770	2809 385	Filing a submission after final rejection (37 CFR § 1.129(a))
1810 770	2810 385	For each additional invention to be examined (37 CFR § 1.129(b))
1801 770	2801 385	Request for Continued Examination (RCE)
1802 900	1802 900	Request for expedited examination of a design application

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$)

420.00

SUBMITTED BY

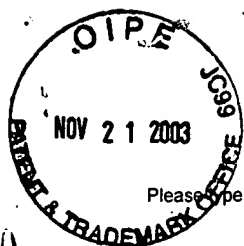
Complete (if applicable)

Name (Print/Type)	John A. O'Toole	Registration No. (Attorney/Agent)	28,336	Telephone	(763) 764-2422
Signature	<i>John A. O'Toole</i>	Date	11/17/03		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

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1761 \$

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PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)		Application Number	09/904,794	
		Filing Date	July 12, 2001	
		First Named Inventor	GERMICK, ROBERT J.	
		Group Art Unit	1761	
		Examiner Name	Steven L. Weinstein	
Total Number of Pages in This Submission		4	Attorney Docket Number	5468USA
ENCLOSURES (check all that apply)				
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Documents <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Response to Restriction Requirement		
Remarks				
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT				
Firm or Individual Name	John A. O'Toole			
Signature	John A. O'Toole			
Date	November 17, 2003			

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date:			
Typed or printed name	Yulandra Y. Washington		
Signature		Date	11/18/03

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